



STATE OF MAINE
PUBLIC UTILITIES COMMISSION

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Testimony of the Maine Public Utilities Commission

Neither for Nor Against

LD 1959, An Act To Ensure Transmission and Distribution Utility Accountability

February 22, 2022

Senator Lawrence, Representative Berry, and honorable members of the Joint Standing Committee on Energy, Utilities, and Technology (Committee), the Public Utilities Commission (Commission) testifies neither for nor against LD 1959, An Act To Ensure Transmission and Distribution Utility Accountability.

Overview of Proposed Legislation

LD 1959 proposes numerous changes that enhance the Commission's oversight of transmission and distribution utilities. Specifically, sections 1, 4 and 5:

- Require the adoption of rules that include quantitative planning and operation standards to ensure that a transmission and distribution utility furnishes safe, reasonable and adequate facilities and service;
- It gives the Commission the authority to impose an administrative penalty on a transmission and distribution utility that fails for 2 consecutive calendar quarters or otherwise consistently fails to meet those standards established by the Commission;
- Require the Commission to initiate an adjudicatory proceeding to determine whether divestiture of a transmission and distribution utility is warranted for a consistent failure by that utility to meet standards;
- Specify that if the Commission determines divestiture is warranted that the Commission seek proposals from qualified buyers including proposals to create a consumer-owned quasi-municipal corporation;
- Require a 5-person committee be appointed by the Governor (3 members) and the Public Advocate (2 members) to develop a proposal on behalf of a potential consumer-owned quasi-municipal corporation;
- Require the Commission to provide sufficient financial support to that committee to retain lawyers, investment banker or consultants as needed to develop the proposal to purchase the utility or its assets; and
- Order divestiture if the any of the proposals received would result, in the long term in net benefits to ratepayers, is a fair and reasonable purchase price and the entity has sufficient financial and technical capability, expertise and experience to own and operate the utility and can comply with all the legal requirements of a transmission and distribution utility.

LD 1959 also includes a provision that allows the Commission to evaluate the expenditures of a transmission and distribution utility between rate cases, by requiring a utility to submit a report, if in the preceding 5 years that Commission has not made a rate determination for that utility, that includes a comparison of the utility's actual costs with the cost estimates used in that utility's most recent rate case. If the Commission finds that there is a difference of more than 10% between the actual costs and estimated costs it provides the Commission with the authority to require an audit of the utility and disallow cost recovery in a future rate case.

Section 3 of the bill enhances protections to employees of a public utility provided under the existing public utility whistleblower statute by expanding the definition of employee to include current and former employees of not only a utility, but an affiliated interest of the utility or a utility contractor. It also includes protection for an employee providing testimony not only to the Commission, but to the Public Advocate.

Lastly, section 6 requires a transmission and distribution utility to submit to the Commission, every 2 years, a 10-year plan for addressing the expected effects of climate change on the utility's assets used for the transmission and distribution of electricity to customers. It requires the Commission to seek input from interested parties on the plan and order the utility to take any action determined to be reasonable and necessary to ensure that the utility is able to furnish safe, reasonable and adequate facilities and service for the foreseeable future.

Commission Observations

This bill is a welcome addition to the Commission's authority and provides us with even more tools to ensure quality service for the people of Maine. As stated in our Government Evaluation report to this Committee, the Commission is currently conducting a comprehensive review of service quality metrics. Specifically, the purpose of this review is to explore whether performance metrics and incentives that have been used historically, most notably for reliability and customer service, could and should be improved and expanded to include other aspects in these two areas as well as to encompass other areas of utility performance, such as price levels, transparency, and furtherance of state policy goals. The Commission currently requires major utilities to report on and meet certain Service Quality Indices (SQI) to hold utilities accountable for providing responsive and reliable service for customers and has established SQI's for both Versant Power and Central Maine Power. We believe this bill will dovetail nicely to these ongoing activities at the Commission.

While the Commission appreciates the regulatory enhancements proposed by this legislation, we would like to highlight a couple of areas of concerns with LD 1959. We believe the intent of section 1 of the bill is to give the Commission the authority to develop the standards in a meaningful and quantitative manner in order to ensure a utility furnishes safe, reasonable and adequate facilities and service. We request that if the Committee moves forward with this bill that it retains the Commission's discretion to develop rules to define those standards highlighted in the bill.

Additionally, it would be helpful to have more clarity regarding the requirement that the Commission provide sufficient financial support to the committee appointed to develop a proposal on behalf of a potential consumer-owned quasi-municipal corporation to retain lawyers, investment banker or consultants as needed to develop that proposal. The bill does not specify how this is to be financed, it lacks clarity on whether the Commission has any discretion to determine if the costs are reasonable and does not provide any cap on spending to develop a proposal. We envision, that the

financial support for these activities could be costly and we would request that if moving forward with LD 1959, the Committee amend this bill to provide this needed clarity.

Lastly, if this bill is passed, the Commission will need to evaluate whether additional staffing will be required to perform the activities envisioned in LD 1959. We think it is likely that we will need additional staff in order to comply with these additional activities, including the development of standards, monitoring compliance with those standards, review and evaluation of reports submitted regarding actual and estimated costs, possible increased utility audits and the potential for increased adjudicatory proceedings to consider divestiture.

I would be happy to answer any questions or provide additional information for the work session.

Sincerely,

A handwritten signature in cursive script, reading "Patrick J. Scully". The signature is written in black ink on a white rectangular background.

Patrick Scully, Commissioner
Maine Public Utilities Commission

cc: Lindsay Laxon, Legislative Analyst